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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/228,103	01/11/1999	HARSH GOPAL	TPP:628US	7307

7590 05/15/2003  
DUNN & ASSOCIATES  
PO BOX 96  
NEWFANE, NY 14108

EXAMINER

HON, SOW FUN

ART UNIT	PAPER NUMBER
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1772

22

DATE MAILED: 05/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-22

**Advisory Action**

Applicant N .

09/228,103

Examiner

Sow-Fun Hon

Applicant(s)

GOPAL, HARSH

Art Unit

1772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment to advisory action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 16-20.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 21-42.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: Attachment to advisory action.

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*Attachment to Advisory Action*

1. The request for reconsideration in Paper # 21 (05/01/03) has been considered but does not place the application in condition for allowance for the reasons set forth below.
2. Applicant argues that the illustration provided in Paper # 20 (mailed 03/13/03) is invalid since the chemical formulas provided by the Dictionary of Chemical Names and Synonyms are different. Applicant is respectfully advised that the objective of said illustration was to show that there is legitimate confusion as to what the structure of the claimed polyglyceryl ester is due to the overlap in nomenclature, wherein glyceryl trioleate as also known as oleic acid triglyceride (I-302, 122-32-7) and polyglyceryl oleate (ester) is also known as oleic acid polyglyceride. The specification neither provides a structure nor an example of a commercially available product to clarify the structure that is being claimed.
3. Applicant argues that the terms “monoglyceride”, “diglyceride” and “triglyceride” have well known meanings to those of ordinary skill in the art as demonstrated by Lehninger (Biochemistry) which teaches that the structure is a triacylglycerol or a triglyceride when all three hydroxyl groups of a glycerol molecule are esterified with fatty acids. Applicant is respectfully apprised that Applicant also needs to provide Lehninger’s teaching on what the structure of polyglyceryl ester is for comparison. In addition, Applicant is respectfully apprised that Applicant still needs to demonstrate that the two structures are clearly different and that this difference is well known in the edible food coating art. As can be seen from the discussion above, the term polyglyceryl oleate is also known as oleic acid polyglyceride, such that when the number in poly is three, the triglyceryl oleate is also known as oleic acid triglyceride.


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Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

87H  
Sow-Fun Hon  
05/13/03

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

5/13/03